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**BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
OF THE STATE OF CALIFORNIA**

In the Matter of:	CRMLA LICENSE NO. 4131173
THE COMMISSIONER OF BUSINESS OVERSIGHT,	ACCUSATION IN SUPPORT OF ORDER REVOKING RESIDENTIAL MORTGAGE LENDING LICENSE OF SECKEL CAPITAL, LLC
Complainant,	
v.	
SECKEL CAPITAL, LLC,	
Respondent.	

The Complainant, the Commissioner of Business Oversight (Commissioner), files this Accusation to revoke the residential mortgage lending license of Seckel Capital, LLC. The Commissioner alleges and charges as follows:

I.

Statement of Facts

1. Seckel Capital is a residential mortgage lender licensed by the Commissioner pursuant to the California Residential Mortgage Lending Act (Fin. Code, §§ 50000, et seq.) (CRMLA). Seckel

1 Capital was first licensed on October 26, 2011.

2 2. The Commissioner seeks to revoke Seckel Capital's residential mortgage lending
3 license pursuant to Financial Code section 50327, based on the following violations: (1) failing to
4 submit complete audited financial statements in violation of Financial Code section 50200(a); (2)
5 failing to pay the costs of examination and fees in the amount of \$5,170.00, in violation of Financial
6 Code section 50314(c); (3) failing to pay an assessment fee of \$1,000.00, in violation of Financial
7 Code section 50401(a); (4) engaging in an act that constitutes fraud, in violation of Financial Code
8 section 50204(k); and (5) continuing to allow a person liable in an administrative judgment by a
9 public agency involving fraud, namely John Marinus Seckel, to serve as an officer and a 10% or more
10 owner, in violation of Financial Code section 50317(a).

11 A. Seckel Capital Failed to Submit Complete Audited Financial Statements.

12 3. Pursuant to Financial Code section 50200 and California Code of Regulations, title 10,
13 section 1950.200, all licensees under the CRMLA are required to submit their audited financial
14 statements for the fiscal year ending December 31 to the Commissioner on or before April 15 of the
15 following year. Financial Code section 50200(a) requires that "...each licensed residential mortgage
16 lender or servicer shall cause its books and accounts to be audited by an independent certified public
17 accountant...[and] the audit...shall be performed in accordance with generally accepted auditing
18 standards."

19 4. Seckel Capital submitted audited financials to the Commissioner with an independent
20 auditor's report for the years of 2013, 2014, 2015 and 2016, that were not in accordance with the
21 Statement on Auditing Standards No. 122 AU-C Section 700 (AU-C 700). AU-C 700 establishes the
22 required format of an Audit Report, including that the Report must include sections "Management's
23 Responsibility for the Financial Statements," "Auditor's Responsibility," and "Auditor's Opinion,"
24 all of which were missing from Seckel Capital's audited financial statements for the years 2013,
25 2014, 2015 and 2016. On two separate occasions, the Commissioner posted items on NMLS
26 notifying Seckel Capital that the financial statements were not in accordance with AU-C 700, but
27 Seckel Capital failed to correct the deficiencies. Accordingly, the Commissioner finds that Seckel
28 Capital's audited financial statements for the years of 2013, 2014, 2015 and 2016 failed to comply

1 with the applicable legal requirements.

2 B. Seckel Capital Failed to Pay the Cost of Examination Fees.

3 5. Financial Code section 50314(c) requires that, “The costs of every inspection and
4 examination of a licensee or other person subject to this division shall be paid to the commissioner by
5 the licensee or person examined[.]”

6 6. On July 8, 2015, the Commissioner invoiced Seckel Capital for \$5,170.00 for a
7 regulatory examination that was commenced on July 3, 2013. To date, Seckel Capital has not paid
8 the examination invoice.

9 C. Seckel Capital Failed to Pay an Assessment Fee of \$1,000.00.

10 7. Financial Code section 50401(a) requires that “each residential mortgage loan lender
11 or servicer licensee shall pay to the commissioner an amount equal to the lesser of: (1) its pro rata
12 share of all costs and expenses ...; or (2) five thousand dollars (\$5,000).” The pro rata share under
13 section 50401 is a minimum of \$1,000.00.

14 8. Seckel Capital was assessed the amount of \$1,000.00 by the Commissioner for the
15 fiscal year 2017-2018. The Commissioner mailed a letter dated September 29, 2017, notifying
16 Seckel Capital of this assessment, and posted an NMLS invoice which created a license item in
17 NMLS notifying Seckel Capital of the assessment. To date, Seckel Capital has not paid the
18 assessment amount of \$1,000.00.

19 D. Seckel Capital Has Engaged in an Act that Constitutes Fraud.

20 9. Financial Code section 50204(k) states that a licensee may not “Do an act ... that
21 constitutes fraud or dishonest dealings.”

22 10. On or about July 11, 2017, the U.S. Department of Housing and Urban Development’s
23 (HUD) Mortgage Review Board suspended Seckel Capital, LLC from originating and underwriting
24 new mortgages insured by the Federal Housing Administration (FHA). In addition, HUD’s
25 Departmental Enforcement Center suspended the President and 100% direct owner of Seckel Capital,
26 John Marinus Seckel (John Seckel), from doing business with the Federal government. HUD found
27 that John Seckel knowingly and fraudulently submitted false financial statements certifying they were
28 audited by an independent accounting firm when, in fact, they were not. HUD further found that

Seckel Capital and John Seckel engaged in a pattern of submitting false financial statement to FHA, representing them as properly audited by independent certified public accountants, when they were not.

11. Based on the foregoing, the Commissioner finds that Seckel Capital violated Financial Code section 50204(k).

E. Seckel Capital Has Allowed a Person Held Liable in an Administrative Judgment by a Public Agency Involving Fraud to Serve as an Officer and a 10% or More Owner.

12. Financial Code section 50317(b)(7) requires that any person held liable in any administrative judgment by any public agency of offenses involving fraud shall not serve as an officer or a shareholder controlling 10% or more of the ownership interests of a residential mortgage lender or servicer.

13. John Seckel is Seckel Capital's President and 100% direct owner. As noted above, on or about July 11, 2017, HUD suspended John Seckel from doing business with the federal government and found that John Seckel knowingly and fraudulently submitted false financial statements to the federal government.

14. Accordingly, the Commissioner finds that Seckel Capital continues to allow a person subject to a judgment by a public agency involving fraud to serve as an officer and a 10% or more owner, in violation of Financial Code section 50317.

II.

Grounds to Revoke the License

15. California Financial Code section 50327 provides in relevant part: "(a) The commissioner may, after notice and a reasonable opportunity to be heard, suspend or revoke any license if the commissioner finds that: (1) the licensee has violated any provision of this division or rule or order of the commissioner thereunder."

Based on the foregoing findings, the Commissioner has determined that there are grounds to revoke Seckel Capital's CRMLA license as Seckel Capital has violated California Financial Code sections 50200, 50314, 50401, 50204, and 50317, and based thereon, grounds exist to revoke its lender license under the CRMLA.

1 WHEREFORE, IT IS PRAYED that the residential mortgage lender license of Seckel Capital,
2 LLC be revoked.

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4 Dated: April 10, 2018

JAN LYNN OWEN
Commissioner of Business Oversight

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6 By _____
7 Robert R. Lux
8 Senior Counsel
9 Enforcement Division
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